

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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MARCELLOUS L. WALKER,

Plaintiff,

v.

Case No. 09-CV-452

STEVE WATTERS,

Defendant.

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**ORDER**

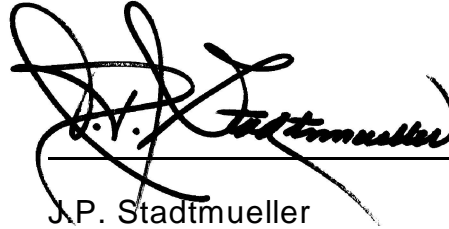
On May 5, 2009, plaintiff Marcellous L. Walker ("Walker") filed a Petition for Writ of Habeas Corpus. (Docket #1). On June 23, 2009, the court screened the case in accordance with Rule 4 of the Rules Governing Section 2254 Cases, and found that Walker had not exhausted his claims in state court. (Docket #4). Walker then, on June 29, 2009, filed a Motion for Reconsideration, in which he argues that his claims were exhausted because the lower state courts refuse to hear his claims. (Docket #6). He would appear to be confusing a denial with a refusal to hear. Just because the lower courts did not grant the relief he sought does not mean they refused to hear his claims. Indeed, the only indication is that he in fact failed to properly bring his claims at each level of the state court system. Thus, there is no reason for this court to grant his motion for reconsideration. As a side note, the court indicated in its previous order that Walker's habeas petition appeared untimely; Walker tried to make an argument for equitable tolling in his reconsideration motion, yet he failed to point to a single reason sufficient to warrant equitable tolling.

Accordingly,

**IT IS ORDERED** that petitioner's Motion for Reconsideration (Docket #6) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 10th day of July, 2009.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller  
U.S. District Judge